

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

DOLORES CEPEDA,
Plaintiff,

v.

BANK OF AMERICA, N.A.,
FAY SERVICING, LLC and
WILMINGTON TRUST NATIONAL
ASSOCIATION SOLELY AS TRUSTEE FOR
THE MFRA TRUST 2014-2,
Defendants.

C.A. No. 19-cv-00005-WES-PAS

**DEFENDANTS FAY SERVICING, LLC AND WILMINGTON TRUST NATIONAL
ASSOCIATION SOLELY AS TRUSTEE FOR THE MFRA TRUST 2014-2'S
MOTION TO STRIKE PLAINTIFF'S NOTICE OF APPEAL**

Defendants Fay Servicing, LLC ("Fay") and Wilmington Trust National Association Solely as Trustee for the MFRA Trust 2014-2 ("Wilmington"), and together with Fay, "Defendants") hereby move to strike Plaintiff Dolores Cepeda's ("Plaintiff") untimely Notice of Appeal ("Notice of Appeal").

1. On January 28, 2021, the Court entered a corrected, amended Judgment in favor of Defendants. *See* Document No. 78.

2. On Tuesday, March 2, 2021, Plaintiff filed a Notice of Appeal. *See* Document No. 79.

3. A notice of appeal "must be filed with the district clerk within 30 days after entry of the judgment or order appealed from." Fed. R. App. P. 4(a)(1).

4. March 22, 2021 is thirty-three (33) days after January 28, 2021.

5. As a result of the clear and self-evident untimeliness of the Notice of Appeal, the Circuit Court lacks jurisdiction and this Court may therefore strike the improper Notice of Appeal.

See In re Grand Jury Proc., 795 F.2d 226, 231 (1st Cir. 1986) (“an untimely, impermissible or frivolous appeal does not vest jurisdiction in the court of appeals”).

6. WHEREFORE, Defendants Fay Servicing, LLC and Wilmington Trust National Association Solely as Trustee for the MFRA Trust 2014-2 join Defendant Bank of America, N.A. and respectfully request that the Court strike Plaintiff Dolores Cepeda’s untimely Notice of Appeal.

Respectfully submitted,

FAY SERVICING, LLC and
WILMINGTON TRUST NATIONAL
ASSOCIATION SOLELY AS TRUSTEE
FOR THE MFRA TRUST 2014-2

By its attorneys,

/s/ Patrick T. Uiterwyk

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Date: March 12, 2021

CERTIFICATE OF SERVICE

I, Patrick T. Uiterwyk, hereby certify that this document was filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on March 12, 2021.

/s/ Patrick T. Uiterwyk
Patrick T. Uiterwyk